

10/575235

PATENT COOPERATION TREATY

PCT

INTERNATIONAL PRELIMINARY REPORT ON PATENTABILITY

(Chapter I of the Patent Cooperation Treaty)

(PCT Rule 44bis)

Applicant's or agent's file reference FPV/43942/PC	FOR FURTHER ACTION		See item 4 below
International application No. PCT/EP2004/011301	International filing date (<i>day/month/year</i>) 07 October 2004 (07.10.2004)	Priority date (<i>day/month/year</i>) 08 October 2003 (08.10.2003)	
International Patent Classification (8th edition unless older edition indicated) See relevant information in Form PCT/ISA/237			
Applicant ANGELETTI, Mauro			

<p>1. This international preliminary report on patentability (Chapter I) is issued by the International Bureau on behalf of the International Searching Authority under Rule 44 bis.1(a).</p> <p>2. This REPORT consists of a total of 6 sheets, including this cover sheet.</p> <p>In the attached sheets, any reference to the written opinion of the International Searching Authority should be read as a reference to the international preliminary report on patentability (Chapter I) instead.</p>	
<p>3. This report contains indications relating to the following items:</p> <p><input checked="" type="checkbox"/> Box No. I Basis of the report</p> <p><input type="checkbox"/> Box No. II Priority</p> <p><input type="checkbox"/> Box No. III Non-establishment of opinion with regard to novelty, inventive step and industrial applicability</p> <p><input type="checkbox"/> Box No. IV Lack of unity of invention</p> <p><input checked="" type="checkbox"/> Box No. V Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement</p> <p><input type="checkbox"/> Box No. VI Certain documents cited</p> <p><input type="checkbox"/> Box No. VII Certain defects in the international application</p> <p><input type="checkbox"/> Box No. VIII Certain observations on the international application</p>	
<p>4. The International Bureau will communicate this report to designated Offices in accordance with Rules 44bis.3(c) and 93bis.1 but not, except where the applicant makes an express request under Article 23(2), before the expiration of 30 months from the priority date (Rule 44bis .2).</p>	

<p>The International Bureau of WIPO 34, chemin des Colombettes 1211 Geneva 20, Switzerland</p> <p>Facsimile No. +41 22 740 14 35</p>		<p>Date of issuance of this report 10 April 2006 (10.04.2006)</p> <p>Authorized officer Ellen Moyse</p> <p>Telephone No. +41 22 338 89 75</p>
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PATENT COOPERATION TREATY

From the
INTERNATIONAL SEARCHING AUTHORITY

REC'D 14 MAR. 2005

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To:

see form PCT/ISA/220

28/4

WRITTEN OPINION OF THE
INTERNATIONAL SEARCHING AUTHORITY
(PCT Rule 43bis.1)

Date of mailing
(day/month/year) see form PCT/ISA/210 (second sheet)

Applicant's or agent's file reference
see form PCT/ISA/220

FOR FURTHER ACTION
See paragraph 2 below

International application No.
PCT/EP2004/011301

International filing date (day/month/year)
07.10.2004

Priority date (day/month/year)
08.10.2003

International Patent Classification (IPC) or both national classification and IPC
A23L1/30, A61K35/78

Applicant
ANGELETTI, Mauro

1. This opinion contains indications relating to the following items:

- ☒ Box No. I Basis of the opinion
- ☐ Box No. II Priority
- ☐ Box No. III Non-establishment of opinion with regard to novelty, inventive step and industrial applicability
- ☐ Box No. IV Lack of unity of invention
- ☒ Box No. V Reasoned statement under Rule 43bis.1(a)(i) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement
- ☐ Box No. VI Certain documents cited
- ☐ Box No. VII Certain defects in the international application
- ☐ Box No. VIII Certain observations on the international application

2. FURTHER ACTION

If a demand for international preliminary examination is made, this opinion will usually be considered to be a written opinion of the International Preliminary Examining Authority ("IPEA"). However, this does not apply where the applicant chooses an Authority other than this one to be the IPEA and the chosen IPEA has notified the International Bureau under Rule 66.1bis(b) that written opinions of this International Searching Authority will not be so considered.

If this opinion is, as provided above, considered to be a written opinion of the IPEA, the applicant is invited to submit to the IPEA a written reply together, where appropriate, with amendments, before the expiration of three months from the date of mailing of Form PCT/ISA/220 or before the expiration of 22 months from the priority date, whichever expires later.

For further options, see Form PCT/ISA/220.

3. For further details, see notes to Form PCT/ISA/220.

Name and mailing address of the ISA:



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**WRITTEN OPINION OF THE
INTERNATIONAL SEARCHING AUTHORITY**

International application No.
PCT/EP2004/011301

Box No. I Basis of the opinion

1. With regard to the **language**, this opinion has been established on the basis of the international application in the language in which it was filed, unless otherwise indicated under this item.
 - ☐ This opinion has been established on the basis of a translation from the original language into the following language , which is the language of a translation furnished for the purposes of international search (under Rules 12.3 and 23.1(b)).
2. With regard to any **nucleotide and/or amino acid sequence** disclosed in the international application and necessary to the claimed invention, this opinion has been established on the basis of:
 - a. type of material:
 - ☐ a sequence listing
 - ☐ table(s) related to the sequence listing
 - b. format of material:
 - ☐ in written format
 - ☐ in computer readable form
 - c. time of filing/furnishing:
 - ☐ contained in the international application as filed.
 - ☐ filed together with the international application in computer readable form.
 - ☐ furnished subsequently to this Authority for the purposes of search.
3. ☐ In addition, in the case that more than one version or copy of a sequence listing and/or table relating thereto has been filed or furnished, the required statements that the information in the subsequent or additional copies is identical to that in the application as filed or does not go beyond the application as filed, as appropriate, were furnished.
4. Additional comments:

**WRITTEN OPINION OF THE
INTERNATIONAL SEARCHING AUTHORITY**

International application No.
PCT/EP2004/011301

Box No. V Reasoned statement under Rule 43*bis*.1(a)(i) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement

1. Statement

Novelty (N)	Yes: Claims	1-22
	No: Claims	
Inventive step (IS)	Yes: Claims	
	No: Claims	1-22
Industrial applicability (IA)	Yes: Claims	1-22
	No: Claims	

2. Citations and explanations

see separate sheet

**WRITTEN OPINION OF THE
INTERNATIONAL SEARCHING
AUTHORITY (SEPARATE SHEET)**

International application No.

PCT/EP2004/011301

ITEM V

1. The following documents (D) are referred to in this communication; the numbering will be adhered to in the rest of the procedure:

- D1: EP-A-0 348 781 (TECNOFARMACI SPA; INDENA SPA; TECNOFARMACI S.P.A; INDENA S.P.A) 3 January 1990 (1990-01-03)
- D2: US-A-5 912 363 (NAFISI-MOVAGHAR ET AL) 15 June 1999 (1999-06-15)
- D3: WO 03/033005 A (RUDOLF WILD GMBH & CO. KG; WILD, HANS-PETER; SASS, MATTHIAS) 24 April 2003 (2003-04-24)
- D4: WO 99/07400 A (MELALEUCA, INCORPORATED; PERKES, LYNN) 18 February 1999 (1999-02-18)
- D5: PATENT ABSTRACTS OF JAPAN vol. 2000, no. 08, 6 October 2000 (2000-10-06) & JP 2000 135071 A (SUNSTAR INC; UNIV KYOTO), 16 May 2000 (2000-05-16)
- D6: EP-A-0 917 876 (ASOCIACION DE INVESTIGACION DE LA INDUSTRIA AGROALIMENTARIA) 26 May 1999 (1999-05-26)

2. INVENTIVE STEP OBJECTIONS

D1 describes a process for grape seed extraction characterised the seeds are extracted with solvent, purified with chromatography, concentrated and dried (examples 1-7).

D2 describes a process for grape seed extraction characterised the seeds are extracted with solvent (low oxygen), purified with chromatography, concentrated and dried (spray) (see relevant passages search report).

D3 describes a process for grape seed extraction characterised the seeds are extracted with solvent, concentrated and dried. Used with green tea extract (example 1, claim 1).

D4-D5 describe the use of unfermented grape seed in the production of polyphenol containing grape seed extract.

D6 describes extraction of grape seed oil from grape seeds (example 4).

**WRITTEN OPINION OF THE
INTERNATIONAL SEARCHING
AUTHORITY (SEPARATE SHEET)**

International application No.

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The difference between D1-D3 and the application is, that the process does not teach how the seed is separated from skin. D4,D5 describe the use of unfermented grape seed as polyphenol containing grape seed extract. A skilled person would have a hint from D4,D5 to use unfermented (fresh) grape seeds in the process of producing polyphenols from grapes. Since both D1-D5 and the application are solving the same problem (grape seed extract containing polyphenols), a skilled person would consider using unfermented grape seed. Consequently, the subject matter of claims 1, 19,22 is considered as being not inventive in view of D1-D5 (Art 56 EPC).

The subject matter of claim 20 is considered as being not inventive in view of D4,D5 and D3 (Art 56 EPC).

The subject matter of claims 1, 21 is considered as being not inventive in view of D4,D5 and D6 (Art 56 EPC).

Dependent claims 2-18 do not contain any features which, in combination with the features of any claim to which they refer, meet the requirements of the PCT in respect of novelty or inventive step, the reasons being as follows:

The features of dependent claims 2-18 have already been employed for the same purpose (see documents D1-D6). It would therefore be obvious to the person skilled in the art, to apply these features with corresponding effect. Consequently, the subject matter of claims 2-18 is considered as being not inventive in view of D1-D6 (Art 33(3) PCT).

None of the claimed compositions, uses or processes are considered to be inventive in view of D1-D6 (Art 33(3) PCT). Having regard to the claimed compositions, uses or processes and the prior art known (D1-D6), it is considered that the man skilled in the art would regard these compositions, uses or processes of the present invention (as far as novel) as an obvious alternative to those known. Therefore, unless an unexpected effect for the present compositions, uses or processes (as far as novel) over the prior art disclosure from D1-D6 can be demonstrated, these compositions, uses or processes do not fulfill the requirements of Art 33(3) PCT.